

Senate Bill No. 911

CHAPTER 706

An act to amend Sections 5500, 5501, and 5513 of the Public Utilities Code, relating to commercial air carriers.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 911, Wiggins. Commercial air carriers: hot air balloons.

(1) Existing law requires the Public Utilities Commission to require every commercial air operator, as defined, to procure, and continue in effect, adequate protection against liability for personal bodily injuries and property damage as a result of an accident, that may be imposed by law upon the operator and upon any person using, operating, or renting an aircraft, as defined, with the permission of the operator.

Existing law, until January 1, 2009, excludes from the definition of commercial air operator a person furnishing or providing transportation by hot air balloon for entertainment or recreational purposes and excludes from the definition of aircraft for this purpose a hot air balloon furnished or providing transportation for entertainment or recreational purposes.

This bill would revise the definition of commercial air operator to also exclude any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for sporting purposes. The bill would revise the definition of aircraft to also exclude for this purpose a hot air balloon furnished or providing transportation for sporting purposes. The bill would extend those dates of repeal to January 1, 2013.

(2) Existing law, until January 1, 2009, imposes specific liability insurance and passenger notice requirements on a person providing transportation by hot air balloon for hire, for entertainment, or for recreational purposes. Existing law, until January 1, 2009, requires that any person providing such transportation comply with any requirement of a city, county, or city and county (local government) that the person obtain a business license as a condition for operating in the jurisdiction of the local government and to prominently display the license as required. Whenever a local government requires a business license, any person providing such transportation would, until January 1, 2009, be required to provide to the local government certain evidence of insurance coverage.

Existing law imposes a state-mandated local program by requiring local governments, until January 1, 2009, to give reasonable notice of this requirement with any business license renewal notification and to maintain as a public record every business license issued by the local government to

any person providing transportation by hot air balloon for hire, for entertainment or recreational purposes, and every currently effective certificate of insurance evidencing the insurance coverage required by the bill. A local government, until January 1, 2009, is authorized to charge a reasonable fee for purposes of carrying out these provisions. Existing law also imposes a state-mandated local program by making it a misdemeanor to fail to obtain and maintain a current valid local business license as required by the bill or to fail to maintain insurance in force as required by the bill.

This bill would delete the requirement that the transportation be provided for entertainment or recreational purposes, and would instead subject transportation by hot air balloon for hire to these provisions. The bill would specify that any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire, prominently display the license only within the city or county of the person's primary place of business frequented by customers and potential customers. The bill would extend those dates for repeal to January 1, 2013. The bill, in extending those dates, would thereby impose state-mandated local programs for the purposes described above.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 5500 of the Public Utilities Code, as amended by Section 1 of Chapter 881 of the Statutes of 2004, is amended to read:

5500. (a) As used in this article, "commercial air operator" means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation. "Commercial air operator" does not include any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for entertainment, sporting, or recreational purposes.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 5500 of the Public Utilities Code, as added by Section 1.5 of Chapter 881 of the Statutes of 2004, is amended to read:

5500. (a) As used in this article, "commercial air operator" means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation.

(b) This section shall become operative on January 1, 2013.

SEC. 3. Section 5501 of the Public Utilities Code, as amended by Section 2 of Chapter 881 of the Statutes of 2004, is amended to read:

5501. (a) As used in this article, “aircraft” means any contrivance used for navigation of, or flight in, the air. “Aircraft” does not include a hot air balloon furnished or providing transportation for entertainment, sporting, or recreational purposes.

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 4. Section 5501 of the Public Utilities Code, as added by Section 2.5 of Chapter 881 of the Statutes of 2004, is amended to read:

5501. (a) As used in this article, “aircraft” means any contrivance used for navigation of, or flight in, the air.

(b) This section shall become operative on January 1, 2013.

SEC. 5. Section 5513 of the Public Utilities Code is amended to read:

5513. (a) Notwithstanding any other provision of this article, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall maintain in force at least one million dollars (\$1,000,000) of liability insurance for personal injury, wrongful death, and property damage resulting from the operation of a balloon carrying up to 10 passengers, with additional liability coverage of one hundred thousand dollars (\$100,000) for each passenger for any balloon carrying more than 10 passengers. A notice shall be provided to every passenger that identifies both the insurer providing a policy of liability insurance to the person providing that transportation and the amount of insurance coverage provided by that policy.

(b) Any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall comply with any requirement of a city, county, or city and county that the person obtain a business license as a condition for operating in that city, county, or city and county. Whenever a city, county, or city and county requires a business license, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall prominently display the license only within the city or county of the person’s primary place of business frequented by customers and potential customers. Whenever a city, county, or city and county requires a business license, the person shall provide to the city, county, or city and county, a currently effective certificate of insurance evidencing insurance coverage as required in subdivision (a). A new certificate of insurance shall be provided to the city, county, or city and county, at least annually or whenever there is a material change in insurance coverage. A city, county, or city and county shall give reasonable notice of this requirement with any business license renewal notification. Every business license issued by a city, county, or city and county to any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire and every currently effective certificate of insurance evidencing insurance coverage, shall be maintained as a public record. The city, county, or city and county may

charge a reasonable fee for purposes of carrying out the provisions of this subdivision.

(c) Any person who violates subdivision (a) by failing to maintain insurance in force as required by subdivision (a) is guilty of a misdemeanor. Any person who violates subdivision (b) by failing to obtain and maintain a current valid city, county, or city and county business license issued by the local government jurisdiction where the person's primary place of business is located, in accordance with subdivision (b), is guilty of a misdemeanor.

(d) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code. Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.